

HIPAA and Emergencies

A fact sheet for Nebraska's local health departments and health care providers

Public health departments may need personal or health information to carry out their responsibilities during emergencies. This fact sheet addresses provisions under the HIPAA Privacy Rule that allow health care providers to share identifiable patient information with public health staff when needed for emergency response.

What is the role of local public health departments during emergencies?

Local health departments are responsible for safeguarding the public's health. They must prepare for and respond to emergencies, including bioterrorism, outbreaks of infectious disease, and other threats. Their role depends on the type of emergency. Health departments may participate in state or local emergency response efforts where there are mass injuries, deaths, or need for shelter, food, or other necessities due to a natural disaster, accident, act of violence, radiation or chemical release or other event. A local health department may be carrying out its responsibilities under public health laws¹ and/or under an emergency operations plan adopted under the state's Emergency Management Act.²

The HIPAA Privacy Rule allows health care providers to disclose identifiable patient information to a health department for emergency response. Depending on public health's role, disclosure may be allowed for one or more of the following purposes:

- Public health activities
- Notification of family or others
- Treatment or care coordination
- Preventing or lessening a threat to public health or safety

When requesting identifiable information, a health department should be prepared to explain its role during a specific emergency and inform the health care provider:

What – What information is needed.

Why – For what purpose this information is needed.

How much – The minimum necessary standard applies to disclosure to public health for emergency response.¹² Health care providers may rely, if such reliance is reasonable under the circumstances, on public health's representation that the information requested is the minimum necessary for the stated purpose.

Nebraska's local public health departments are authorized by the Nebraska Department of Health and Human Services to build and maintain the local public health department jurisdiction's preparedness and response to bioterrorism, outbreaks of infectious diseases, and other public health threats and emergencies under its agreement with the Centers for Disease Control and Prevention.

At the time of or during an incident, public health will work with other public officials (e.g. medical and emergency operations leadership) to determine the complexity of the event or incident.³ Specifically, public health will need identifiable information to track and locate victims, to plan for the needs of shelter residents (medications, medical equipment, etc.), to prepare for a mass fatality situation, and to plan for a possible surge in demand for medical services.³

Furthermore, public health may investigate and test for the source of illness or injury; coordinate or support notification of families regarding the location of individuals injured during an event; and cooperate with public safety, the local or state emergency operations center, disaster relief organizations and others to maintain situational awareness gathered from medical and other health stakeholders.

Does the HIPAA Privacy Rule Allow Health Care Providers to Share Patient Information With Public Health Departments During an Emergency?

Yes, the Privacy Rule recognizes the legitimate need for health departments and others responsible for ensuring public health and safety to have access to individually identifiable patient information to carry out their responsibilities. The federal Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule sets a national standard for protecting patient information held by "covered entities," which includes most health care providers. However, to ensure that health departments receive the information they need, the Privacy Rule contains several provisions that allow health care providers (including hospitals, physicians, clinical laboratories and other providers) to disclose patient information to health department representatives, without the authorization of the individual.

When Does the HIPAA Privacy Rule Allow Disclosure of Patient Information?

Several provisions allow a health care provider to share patient information with a health department during an emergency. One or more of the following provisions may apply, depending on public health's role during a particular emergency and the purpose for which the information is needed.

PUBLIC HEALTH ACTIVITIES

Health care providers can share patient information for public health activities with a public health authority, such as a local health department, that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including the conduct of public health interventions.⁴

NOTIFICATION

Health care providers can share patient information as necessary to identify, locate, and notify family members, guardians, or anyone else responsible for the individual's care of the individual's location, general condition, or death.⁵ The health care provider should get verbal permission from individuals, when possible; but if the individual is incapacitated or not available, providers may share information for these purposes if, in their professional judgment, doing so is in the patient's best interest.⁶ When a health care provider is sharing information with disaster relief organizations that, like the American Red Cross, are authorized by law or by their charters to assist in disaster relief efforts, it is unnecessary to obtain a patient's permission to share the information if doing so would interfere with the organization's ability to respond to the emergency.⁷

TREATMENT

Health Care providers can share patient information as necessary to provide treatment.⁸ The Office for Civil Rights (OCR) includes "coordinating patient care with others (such as emergency relief workers or others that can help in finding patients appropriate health services)" as part of the Treatment, Payment, or Operations (TPO) disclosures.⁹

FACILITY DIRECTORY

Health care facilities maintaining a directory of patients can tell people who call or ask about individuals whether the individual is at the facility, their location in the facility, and general condition.¹⁰

IMMINENT DANGER

Providers can share patient information with anyone as necessary to prevent or lessen a serious and imminent threat to the health and safety of a person or the public, consistent with applicable law and the provider's standards of ethical conduct.¹¹

Planning and Preparedness

Coordination between health care providers and public health is critical to an effective emergency response. All Nebraska hospitals should have disaster plans that become effective when there are mass casualties. Policies and procedures regarding HIPAA should expressly reference exceptions made during emergency and disaster situations. Employees, staff, and providers should be educated on these issues so their ability to share information is not unnecessarily impeded during a disaster.

¹ NEB. REV. STAT. §§ 71-1626 to 71-1636.

² NEB. REV. STATE. §§ 81-829.36 to 81-829.75. For links to Local Emergency Operations Plans, visit <http://www.nema.ne.gov/leops/nebraskamap.html>.

³ CDC, Public Health Preparedness Capabilities: *National Standards for State and Local Planning* (March, 2011).

⁴ 45 CFR 164.512(b). See, [CDC Guidance on the HIPAA Privacy Rule and Public Health](#), Morbidity & Mortality Weekly Report, Vol. 52 (2003, April).

⁵ 45 CFR 164.510(b)(ii).

⁶ 45 CFR 164.510(b)(2), (3).

⁷ 45 CFR 164.510(b)(4).

⁸ 45 CFR 164.506.

⁹ US DHHS Office for Civil Rights (2005, Sept). [Hurricane Katrina Bulletin: HIPAA Privacy and Disclosures in Emergency Situations](#); 45 CFR 164.501 (Definition "health care operations.")

¹⁰ 45 CFR 164.510(a).

¹¹ 45 CFR 164.512(j).

¹² 45 CFR 164.514(d)(3)(iii)(A).